REMARKS

Regarding the status of the present application, Claims 1, 2, 4 and 13 have been amended, Claims 14-20 have been added, and Claims 1-20 are pending in this application. Reconsideration of this application is respectfully requested.

Claims 2-9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner pointed out certain questionable language in Claims 2 and 4. Claim 2 has been amended to address the Examiner's issue. In view of the above amendments is respectfully submitted that Claims 2-9 are clear and definite. Withdrawal of the Examiner's rejection and allowance of Claims 2-5 are respectfully requested.

Claims 1 and 10-13 were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent No. 6,490,298 issued to Chin et al.

The Chin et al. patent, in its Abstract, discloses "Apparatus and methods for multiplexing data received from a plurality of sources to a communication channel. Each of the sources is assigned to one of at least two scheduling layers based in part upon one or more bit rate characteristics of the sources."

The Examiner's position is that "Chin teaches a communication method for use in a dynamic network comprising the steps of allocating network resources to a data stream based upon precedence levels of other data streams desiring the same resources or already utilizing the same resources (e.g. Fig. 3A teaches sources A-Z are assigned to layers to communication channel)." It is respectfully submitted that the Examiner's rejection is in error.

It is respectfully submitted that the Chin et al. patent does not disclose or suggest anything regarding a dynamic network. A dynamic network, as taught in the present application, comprises a wireless or mobile network. Claim 2 has been amended to recite the dynamic network in the body of the claim. It is absolutely clear that a dynamic, wireless or mobile network is not disclosed or suggested in the Chin et al. patent. It is respectfully submitted that the Examiner has improperly extended the teachings of the Chin et al. patent in making the rejection.

Furthermore, it is respectfully submitted that the Chin et al. patent does not specifically disclose or suggest anything regarding precedence levels. The term "precedence" is not used in the Chin et al. patent. It is respectfully submitted that assigning each source to one of at least two scheduling layers based in part upon one or more bit rate characteristics of the sources as taught by the Chin et al. patent does not correspond to allocating network resources of a dynamic network to a data stream based upon precedence levels of other data streams.

As is disclosed with reference to Fig. 3A of the Chin et al. patent, the layer that is assigned to a particular source is determined by "the data transmission rates of the sources, or the bit rate precision levels of the sources, or both" of the particular source (Chin et al. col. 5, lines 53-54). Assignment of the layer is not based upon the precedence of the other data stream,

it is based upon the data transmission rate or bit rate precision level of the particular source. Furthermore, there is nothing that is

Therefore, with regard to Claim 1, it is respectfully submitted that the Chin et al. patent does not disclose or suggest "allocating network resources of a dynamic network to a data stream based upon precedence levels of other data streams desiring the same resources or already utilizing the same resources" as is recited therein. Accordingly, withdrawal of the Examiner's rejection and allowance of Claim 1 are respectfully requested.

With regard to Claim 10 it is respectfully submitted that the Chin et al. patent does not disclose or suggest that "network resource allocation is based upon link bandwidth." The Chin et al. patent states only that "As explained below, multiplexer 12 is configured assign each source A-Z to a time slot 22 in real-time to achieve efficient bandwidth utilization with reduced computational complexity and without sacrificing source performance (col. 5, lines 40-45). It is respectfully submitted that this does not teach using link bandwidth to allocate network resources.

With regard to Claim 11 it is respectfully submitted that the Chin et al. patent does not disclose or suggest that "network resource allocation is based upon priority position in a queue." The terms "priority," "position" and "queue" are not used in the Chin et al. patent.

With regard to Claim 12 it is respectfully submitted that the Chin et al. patent does not disclose or suggest that "network resource allocation is based upon priority position in a central processing unit." The terms "priority," "position" and "central processing unit" (or equivalent) are not used in the Chin et al. patent.

With regard to Claim 13 it is respectfully submitted that the Chin et al. patent does not disclose or suggest that "network resource allocation is based upon memory capacity for processing." The only usage of the term "broadcast" in the Chin et al. patent is at col. 4, lines 4-7 where it is stated that "Output multiplex 24 may be immediately broadcast to receiver 18 over channel network 16 or stored in memory for broadcast at a later time." It is respectfully submitted that this is not a disclosure or suggestion of what is recited in Claim 13.

Dependent Claims 10-13 are also considered patentable over the Chin et al. patent based upon their dependency from allowable Claim 1. Accordingly, withdrawal of the Examiner's rejection and allowance of Claims 10-13 are respectfully requested.

Dependent Claims 2-9 were not rejected in view of any prior art reference. Independent Claim 14 has been added that includes the subject matter recited in Claims 1 and 2. Dependent Claims 15-20 recite the subject matter recited in Claims 3-8.

The prior art made of record and not relied upon is considered pertinent to ' disclosure to the extent indicated by the Examiner.

In view of the above, it is respectfully submitted that all presently pending Claims are not anticipated by, nor are they obvious in view of, the Chin et al. patent, and are therefore patentable. Accordingly, it is respectfully submitted that the present application is in condition for allowance. Reconsideration of this application and allowance thereof are earnestly solicited.

Respectfully submitted,

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